

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

LINDA NICHOLS,
Charging Party

HRB CASE NO. 0141016527

-v-

FINAL AGENCY DECISION

MONTANA DEPARTMENT OF
CORRECTIONS,
Respondent

Charging Party, Linda Nichols (Nichols), filed a complaint with the Department of Labor and Industry (Department) alleging discrimination in employment on the basis of disability. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Nichols's allegations that Respondent, Montana Department of Corrections, discriminated against Nichols. The Department issued a Notice of Dismissal. Nichols filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on July 14, 2014. No oral argument was requested for this hearing.

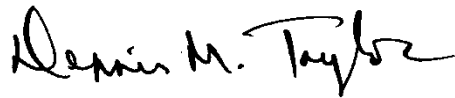
The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to file a complaint in district court, in the district where the alleged violation occurred, and seek appropriate relief. *Section 49-2-511(3)(a), MCA*. If a charging party fails to commence a civil action within 90 days, the claims are time barred. *Id.*

Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Sections 2-4-702 and 49-2-511(3)(b), MCA.* This review must be requested within 30 days of the date of this order. A party must promptly serve copies of a petition for judicial review upon the Human Rights Commission and all parties of record. *Section 2-4-702(2), MCA.*

IT IS HEREBY ORDERED, that Linda Nichols's objection is **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against Montana Department of Corrections.

DATED this 17th day of July, 2014.

A handwritten signature in black ink, reading "Dennis M. Taylor". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Dennis M. Taylor, Chair
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this 17th day of July, 2014.

LINDA NICHOLS
714 W. 3RD STREET
ANACONDA, MT 59711

MCKENZIE MCCARTHY
MONTANA DEPARTMENT OF CORRECTIONS
P.O. BOX 201301
HELENA, MT 59620

A handwritten signature in cursive script, reading "Annah Smith".

Annah Smith, Legal Secretary
Montana Human Rights Bureau